

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

Marcus Rivers,) Case No. 4:19-cv-00807-DCC
)
Plaintiff,)
)
)
v.)
)
)
Darlene Taylor and Tracey Brododax,)
)
)
Defendants.)
)
_____)

ORDER

This matter is before the Court on Plaintiff's Complaint and Amended Complaint alleging violations of her civil rights pursuant to *Bivens v. Six Unknown Named Agents of the Fed. Bureau of Narcotics*, 403 U.S. 388 (1971). ECF No. 1, 7. In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2), (D.S.C.), this matter was referred to United States Magistrate Judge Thomas E. Rogers, III, for pre-trial proceedings and a Report and Recommendation ("Report").

On March 28, 2019, the Magistrate Judge informed Plaintiff that the Complaint was subject to summary dismissal and directed him to file an Amended Complaint correcting the identified deficiencies. ECF No. 5. On April 15, 2019, Plaintiff filed an Amended Complaint; however, he failed to cure the noted deficiencies. ECF No. 7. On April 30, 2019, the Magistrate Judge issued a Report recommending that this action be dismissed with prejudice for failure to state a claim upon which relief can be granted. ECF No. 14. The Magistrate Judge advised Plaintiff of the procedures and requirements for filing

objections to the Report and the serious consequences if he failed to do so. Plaintiff has filed no objections, and the time to do so has passed.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. *See Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a *de novo* determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The Court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b). The Court will review the Report only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of timely filed objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” (citation omitted)).

After considering the record in this case, the applicable law, and the Report of the Magistrate Judge, the Court finds no clear error and agrees with the Report’s recommendation. Accordingly, the Court adopts the Report by reference in this Order. This action is dismissed with prejudice for failure to state a claim after opportunity for amendment. *See Workman v. Morrison Healthcare*, 724 F. App’x. 280 (4th Cir. June 4, 2018) (Table) (explaining where the district court has already afforded a plaintiff with the opportunity to amend, the district court, in its discretion, can either afford plaintiff an

additional opportunity to file an amended complaint or dismiss the complaint with prejudice).

IT IS SO ORDERED.

s/ Donald C. Coggins, Jr.
United States District Judge

May 30, 2019
Spartanburg, South Carolina

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.